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GOVERNMENT ATTORNEY FILES BRIEF ON CANNED VEGETABLE REGULATIONS

Primary Points of Interest to Cannerymen in Suggested Findings Summarized

Suggested findings of fact and suggested conclusions in the form of a regulation for the canned succulent vegetables on which a hearing was held by the Department of Agriculture on April 24-26, 1939, have been filed with the presiding officer of that hearing by the government attorney, John A. Murphy. It is likely that these suggestions will be deemed persuasive by the presiding officer in formulating his own proposed findings of fact and proposed regulations relative to these vegetables, which will be filed with the Secretary of Agriculture.

The proposed standards on which the hearing was held were published in the INFORMATION LETTER for March 25, 1939, page 5777. In May, in an effort to provide assistance to cannerymen who were unable to attend the hearings held in April, the Association's counsel summarized the evidence presented at this hearing. A number of copies of this summary still are available and will be sent upon request to interested cannerymen. Ten days were allowed cannerymen, after the filing of the transcript of evidence, to file their own proposed findings of fact and proposed conclusions. That period now has elapsed.

Recently, the government attorney filed his suggestions, which, as stated above, will probably be used as the basis for the presiding officer's proposed findings of fact and proposed regulations. At the time that the presiding officer files his proposals with the Secretary of Agriculture, a limited time will be given cannerymen to file in writing briefs, arguments, and objections. In an effort to afford additional time for study by interested cannerymen, there are summarized below certain of the government's suggestions, which should be carefully considered by cannerymen of these vegetables. In this way, cannerymen may know in advance the direction the presiding officer's proposals may take, and this gives cannerymen an additional period of time in which to prepare their briefs and arguments.

The April hearing was held on a proposal to promulgate standards of identity for the miscellaneous vegetables listed below, and for mixtures of two or more vegetables. However, these proposals for standards for mixed vegetables are abandoned in the government attorney's brief, and he recommends that no action be taken towards promulgating a definition for mixed vegetables until such time as a mathematical relationship can be worked out between specifically named vegetables, or groups of vegetables, that fall in the same category and that can be made the basis of a proposal and public hearing.

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TOMATO PRODUCTS REGULATIONS

Standards Established for Canned Tomatoes, Puree, and Paste

As a result of public hearings—held for the purpose of receiving evidence upon which definitions and standards could be formulated—the Secretary of Agriculture has issued orders and promulgated regulations establishing definitions and standards of identity for canned tomatoes, tomato puree and tomato paste. Included are standards of quality and fill of container for canned tomatoes.

These promulgations are published in the July 18, 1939, issue of the *Federal Register*, and will become effective on January 1, 1940.

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WAGE-HOUR COMPROMISE EFFORT

Rules Committee and Labor Subcommittee to Hear Barden and Andrews

The House Committee on Rules decided on Friday, July 21, to hear Representative Barden and Administrator Andrews on the request of Mr. Barden for a rule for the consideration of his proposed amendments to the wage and hour law. Earlier in the week, in another attempt to compromise the wide differences between the proposed Norton and Barden wage and hour law amendments, the House Labor Committee had named a subcommittee to meet with Representative Barden and Administrator Andrews. This action of the Labor Committee followed developments of the preceding day in which Chairman Sabath of the Rules Committee refused to set a date for hearing Representative Barden on his request for a rule, and President Roosevelt in statements at a press conference indicated that he would veto the Barden amendments if they were passed by Congress.

Administrator Andrews also denounced the Barden amendments at a press conference on Thursday, declaring that in view of the demand in the House for broad exemptions from the Fair Labor Standards Act for workers in industries allied to agriculture, "it seems clear that carefully considered amendment of the Act in the interest of wage earners, employers, and the public interest can hardly be hoped for at this time."

The Labor subcommittee is composed of Representatives Keller of Illinois, chairman; Randolph of West Virginia, D'Alesandro of Maryland, Welch of California, and Smith of Maine.

The House on July 20 passed a resolution, proposed by Representative Smith of Virginia, creating a five-man investigating committee to study the administration of the National Labor Relations Act. The resolution, which was adopted by a vote of 254 to 134, would also authorize the committee to make recommendations to the House for legis-

lation to amend the Act. The membership of the committee will be named by Speaker Bankhead.

Amendments to the Social Security Act were passed by the Senate on July 13 and sent to a House and Senate Conference Committee. The provisions of the bill were summarized in the INFORMATION LETTER for June 10.

The Logan administrative law bill, noted in the INFORMATION LETTER for June 24, was passed by the Senate without debate on July 18. A motion to reconsider the bill has been made, however, and it is probable that the Senate will debate the measure this coming week. The bill would establish a uniform procedure in the Federal departments for the issuance of rules, regulations and orders; a uniform system of administrative appeals; and a uniform method of court review of administrative rules, regulations, orders, and decisions.

The Senate passed the Walsh amendments to the Walsh-Healey Government Contracts Act on July 17. Under the amendments the Act would be broadened to include contracts with the government in excess of \$4,000. Subcontractors also would be brought within its provisions.

Stocks and Shipments of Canned Beets

Total stocks of canned beets in canners' hands on July 1, 1939, amounted to 942,080 cases, compared with 592,176 cases on July 1, 1938, and 1,414,385 cases on April 1, 1939, according to figures compiled by the Association's Division of Statistics. These figures are based on reports from 95 per cent of the canners packing beets in 1938, together with estimates for the 5 per cent not reporting.

Shipments during the three months April to July, 1939, amounted to 472,305 cases, compared with 388,977 cases shipped during the same three months of 1938. Shipments during the year ending July 1, 1939, amounted to 2,390,203 cases, compared with 2,373,520 cases during the preceding year.

In the following table are shown by regions stocks of canned beets on July 1, 1939, and shipments during the three months April to July:

	Stocks of Beets on July 1, 1939			Shipments April 1 to July 1
	Sold not shipped	Unsold	Total	
	Cases	Cases	Cases	
East.....	60,231	129,963	190,194	160,831
Midwest.....	36,216	619,443	655,659	250,941
West.....	14,264	81,963	96,227	60,533
Total.....	110,711	831,369	942,080	472,305

FREDERICK B. CHILDS

Frederick B. Childs, an executive of Libby, McNeil and Libby, died July 18 at Sturgess Memorial Hospital, Sturgess, Mich., after a brief illness. Mr. Childs was born at Morrison, Ill., in 1892. He is survived by his wife, Helen, and four children, Warren, Frederick, Mary, and Eleanor.

He had worked for Libby for over 30 years, beginning when only 16. After occupying important positions in the evaporated milk department, he became general superintendent of all factory operations at Libby's Eastern plants. In 1934

he became a vice president of the company in charge of milk and salmon and other departments.

He was a member of the Board of Directors of the National Canners Association from 1932 to 1935. Upon creation of the Association's Home Economics Committee in 1935, Mr. Childs became its chairman and served until 1938. He was a member of the NRA Code Authority for the canning industry during its existence. After serving as vice chairman of the Evaporated Milk Association in 1936 and 1937, he was elected chairman of that Association in 1938 and again in 1939.

Mr. Childs' kindness, geniality, and abounding energy will be long remembered by those who knew him. An associate says of him: "I never knew a man to have more friends and I know no favor was too great for Mr. Childs to do for a friend."

Albanus Phillips Appointed Byrd's Food Advisor

Col. Albanus Phillips, president of the Phillips Packing Co. of Cambridge, Md., has been appointed food counselor by Rear Admiral Richard E. Byrd of the new colonization expedition to the Antarctic. Congress has appropriated money for the expedition to claim about 675,000 square miles of the Antarctic Continent.

Fruits and Vegetables in Cold Storage

Stocks of frozen fruits in cold storage on July 1, 1939, both quick freeze and cold pack, were reported by the Agricultural Marketing Service as 103,675,000 pounds, an increase over June 1 of 19,985,000 pounds. Stocks of frozen vegetables were increased during June by 5,524,000 pounds. July 1, 1939, holdings exceeded those of July 1, 1938, by 19,518,000 pounds.

The following tables show stocks on hand on July 1, 1939, of frozen fruits and vegetables, compared with previous periods. Stocks of frozen fruits are segregated on the basis of small containers (less than 30-lb. capacity) and large containers (30-lb. capacity or more):

FROZEN FRUITS	Small Containers		Large Containers	
	June 1	July 1	June 1	July 1
	1,000 pounds	1,000 pounds	1,000 pounds	1,000 pounds
Blackberries.....	173	141	939	1,299
Blueberries.....	901	718	3,086	2,438
Cherries.....	573	463	8,520	6,557
Logan and similar berries.....	358	380	1,456	1,951
Raspberries.....	743	761	3,780	4,100
Strawberries.....	11,010	16,285	21,711	33,301
Other fruits.....	2,799	2,308	9,507	9,741
Classification not reported.....	1,945	3,607	16,189	19,445
Total.....	18,502	24,753	65,188	78,922
FROZEN VEGETABLES	Small Containers		Large Containers	
	June 1	July 1	June 1	July 1
	1,000 pounds	1,000 pounds	1,000 pounds	1,000 pounds
Asparagus.....	3,741	6,089	7,393	7,393
Beans, lima.....	3,433	8,911	8,300	8,300
Beans, snap.....	2,222	4,449	4,192	4,192
Broccoli, green.....	601	1,007	1,015	1,015
Corn, sweet.....	2,019	4,781	4,300	4,300
Peas, green.....	11,415	14,463	19,274	19,274
Spinach.....	2,586	2,103	2,922	2,922
Other vegetables.....	7,564	2,020	1,880	1,880
Classification not reported.....	3,782	3,683	3,683
Total.....	33,581	47,575	53,099	53,099

GOVERNMENT ATTORNEY FILES BRIEF ON CANNED VEGETABLE REGULATIONS

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The list of vegetables upon which hearings were held, and for which a summary of evidence is available, includes:

Artichokes; whole, hearts.
Asparagus; stalks, cut stalks, tips, butts.
Bean Sprouts.
Green Beans; whole, cut, slices.
Wax Beans; whole, cut, slices.
Shelled Beans.
Lima Beans.
Beets; whole, slices, quarters, dice, pieces, shoestring.
Beet Greens.
Broccoli.
Brussel Sprouts.
Cabbage.
Carrots; whole, slices, quarters, dice, pieces, shoestring.
Cauliflower.
Celery.
Collards.
White Corn; on cob, whole grain, crushed.
Yellow Corn; on cob, whole grain, crushed.
Dandelion Greens.
Field Corn; whole grain, crushed.
Kale.
Kohlrabi.
Mushrooms; buttons, whole, slices, pieces and stems.
Mustard Greens.
Okra; whole, cut.
Onions; whole, cut.
Parsnips; whole, quarters, cut, slices, shoestring.
Black-eye Peas.
Field Peas.
Peppers; whole, pieces.
Pimientos; whole, pieces.
Potatoes; whole, dice.
Sweet Potatoes; whole, pieces.
Salsify.
Spinach.
Swiss Chard.
Truffles.
Turnip Greens.
Turnips; whole, quarters, cut, slices.

The principal points at which the government brief does not concur in the suggestions made by canners, or differs from the original proposal are as follows:

Artichokes—The brief recommends that the use of acid in artichokes should be declared on the label.

Asparagus—The forms for the vegetable, and the size units recommended, are as follows: Stalks or spears (over 4 inches long); cut stalks or cut spears; tips (not less than 3¼ inches nor more than 4 inches long), points (less than 3¼ inches long); bottom cuts.

Some difficulty may be encountered in the case of asparagus because of the limitations on lengths proposed. The can sizes recommended by the Committee on Simplification of Containers included the following:

No. 1 Square can (300 x 308 x 308). Maximum inside height allowing for seams is 3½ inches. Asparagus in this can would have to be labeled "Points." The same is true of the 8Z Tall (211 x 304).

No. 1 Picnic (211 x 400). This can could hold only "Tips". If the height of contents were only 3¼ inches (the maximum length of "points"), the can would be slack-filled.

No. 300 (300 x 407). The maximum inside height of this can is 4-1/16 inches. Unless the can could be filled within 1/16 inch of entirely full, it would only be possible to pack "Tips" in this size can.

No. 1 Tall (301 x 411), **No. 2½** (401 x 411). With ½ inch headspace or less these cans would hold "Spears." The maximum headspace allowable for this size can (when the can is 90% full) is approximately ⅝ inch. It would probably be difficult to pack "Tips" in these cans.

No. 2 (307 x 409). Maximum inside height is 4-3/16 inches. With 6/16 inch headspace or less, the can could hold "Spears." With more headspace, "Tips" could be packed in the can. The maximum allowable headspace for this can (90% full) is 9.6/16 inch.

It will be seen from the above that four cans on the recommended list have heights such that the contents would be on the borderline between "Spears" and "Tips."

The term "Center Cuts—Tips Removed" was not recommended. Color designations were also omitted.

Green Beans—The term "French Style" as applied to green beans is considered by the government to be meaningless. It recommends the terms "sliced lengthwise" or "shoestring" in place of "French Style." "Asparagus Style" is considered to be descriptive of a method of packing "Whole" beans, and not a separate ingredient. It should be noticed that this omission does not prevent a canner from labeling his beans "Whole Green Beans, Asparagus Style."

Beets—"French Style" eliminated in favor of "Shoestring."

Carrots—"Cut" substituted for "pieces".

Corn—"White sweet corn" and "Yellow sweet corn" were added as additional names for the vegetables. "Yellow" was retained instead of the "golden" recommended by the canners. The term "crushed" was also retained instead of "cream style." "Whole kernel" was added as an optional style designation in addition to "whole grain".

Peppers—"Green Sweet Peppers" and "Red Sweet Peppers" are proposed as separate vegetables in place of the single "Peppers" in the original proposal.

Kohlrabi—This was eliminated because there was no evidence that it was canned, the government brief stated.

Rutabagas—These were added, but were not in the original proposal.

Water may be added to all the vegetables except pimientos and mashed sweet potatoes, and is not required to be stated on the label. Salt may also be added without declaration. All other added ingredients, however (citric, lactic and tartaric acids, edible vegetable oils, starch, snaps, vinegar, spice and sugar) must be declared.

The words "halved", "quartered", "sliced", and "diced", may be used respectively, as alternatives, for "half" or "halves", "quarters", "slices", and "dice".

As will be seen from the above, under the standard of identity there are three elements considered in the labeling of canned succulent vegetables. These are: (1) the name of vegetable, (2) the form of the vegetable, (3) the optional ingredients. Their importance lies in the fact that these three elements will be fixed in the definition and they must then be given on the label *exactly* and *completely* as they appear in the standards.

For this reason, canners are urged to give consideration to the proposals in the government brief, and to be prepared to file arguments at the proper time on any points which they consider unsatisfactory.

TOMATO PRODUCTS REGULATIONS

(Continued from page 5909)

Regulations and findings of fact, taken from the promulgations of the Secretary, are reprinted below.

CANNED TOMATOES**Standard of Fill of Container***Findings of Fact*

1

Containers for tomatoes are of two types: (1) the usual "sanitary" tin can, and (2) glass and all other kinds of containers other than the ordinary "sanitary" tin can.

2

A. The fill of container for tin cans with lids of a double seam may be determined by the following method:

(1) Cut out the lid without removing or altering the height of the double seam.

(2) Measure the vertical distance from the top level of the container to the top level of the food by means of a depth gage.

(3) Remove the food from the container; then wash, dry, and weigh the container.

(4) Fill the container with water which is at room temperature to three-sixteenths of an inch vertical distance from the top level of the container. Then weigh the container thus filled and determine the weight of the water by subtracting the weight of the container found as prescribed in (3).

(5) Draw off enough water from the container so that the level of the water corresponds to the level of the food as found in the measurement (2) above. Weigh the container with the remaining water and determine the weight of such remaining water by subtracting the weight of the container as determined by method (3) above.

(6) Divide the weight of water found by method (5) above by the weight of water found by method (4) above, and multiply by 100. The result should be the percentage of the total capacity of the container occupied by the food.

B. The fill of container for glass or other types of container, other than described in "A" above, may be determined by the same method as outlined above, except that process (1) is omitted and in lieu of process (4) the container is filled with water so that the water is level with the top of such container.

3

The method of measuring the fill of container as presented in finding number 2 A is reasonably accurate. The method as applied to tin cans with a double seam does not reach mathematical exactness, however, because an allowance of three-sixteenths of an inch is made for the height of such seams, whereas such seams may not be exactly three-sixteenths of an inch. Such variations from the allowance as may exist are, however, of no particular consequence as affecting either the consumer or the producer.

4

A standard of fill of container based upon the finding 2 is a necessity, in order to promote honesty and fair dealing in the interest of the consumer by insuring him a container which is practically full.

5

Under good commercial practice, a standard fill of container based upon the preceding findings could be easily met by good commercial practice.

6

In addition to the space in the cans as measured to the bottom of the lid, there are seams in each end of the can which allow some additional space in such containers.

7

The method of measuring head-space in order to determine the percentage of the container occupied by the food is not an accurate index to the proportion of the food to the space in the container. This is true because many containers for canned tomatoes are not cylindrical and only perfect cylinders can be measured accurately by the head-space method. Even the ordinary tin can in general commercial use is not a perfect cylinder, and the measuring of head-space is accurate for determining the proportion of the capacity of the container occupied by food only in the case of containers having a uniform cross-section area throughout the entire height.

8

Irregular containers now in use for canned tomatoes cannot be effectively measured by the head-space method.

9

The methods for measuring fill of container for canned tomatoes, set out in finding number 2, are simple and practical, and lend themselves most admirably to commercial practice.

10

That the standard practice of canners which has received consumer acceptance is that the fill of container of canned tomatoes is a fill of not less than 90 per cent of the total capacity of the container.

Regulation Establishing Standard of Fill

§ 53.042 *Canned tomatoes—Fill of container.* (a) The standard of fill of container for canned tomatoes is a fill of not less than 90 per cent of the total capacity of the container, as determined by the general method for fill of containers prescribed in section 10.010 (b).

CANNED TOMATOES**Definition and Standard of Identity***Findings of Fact*

1

Tomatoes used in canning are mature tomatoes of red or reddish varieties.

2

There are three types of canned tomatoes:

(a) The most common of the three types of canned tomatoes is generally referred to simply as "tomatoes." In the canning process, tomatoes are washed, sorted, trimmed, scalded, peeled, and cored. The order of these processes varies somewhat according to the practice of the individual canner. When the liquid which drains from the tomatoes in the peeling and coring process is to be used in the finished products, sorting of the tomatoes is generally done before scalding. Tomatoes which are sorted out because of imperfections are trimmed in such a manner as to remove imperfections. Following this scalding process, tomatoes are peeled and cored. If they have not been sorted and trimmed before scalding, the liquid, cores, and trimmings obtained at this point in the process are discarded. If, however, there has been sorting and trimming before scalding so that no unsound tomatoes are received by the peelers, the peels, cores, and liquid are kept for use in canning tomatoes or other

tomato products. The peeled and cored tomatoes may be packed in containers either by hand or by a machine. To the tomatoes in their containers is added sufficient liquid which has drained from tomatoes in the peeling and coring process to fill the cans completely. Some canners use the liquid obtained from strained tomatoes in lieu of, or in addition to, the liquid which has drained from tomatoes in the peeling and coring process to fill the cans completely. The air in the tomatoes in their containers is then removed by heat or by a vacuum process and the container sealed. Thereafter, the container is processed by heat, so as to prevent spoilage, and properly cooled, so as to prevent overcooking.

(b) In addition to the process of canning described above, some canners follow the practice of filling the container full of whole, mature tomatoes of red or reddish varieties, trimmed and cored as described in (a), without the addition of any liquid which may have drained from such tomatoes or from any other tomatoes. This type of canned tomatoes differs from the first type described only in that no additional tomato liquid is added.

(c) In this third method of canning tomatoes, whole tomatoes, trimmed, peeled, and cored as described in the first process, are placed in their containers so that their containers are about two-thirds to three-fourths full. To these partly filled containers is added a hot tomato liquid. This liquid is procured by placing the clean peels, cores, and liquid which has drained from tomatoes in the peeling and coring process into a machine known as a cyclone. To this tomato mixture may be added some whole tomatoes. The tomato mixture is then processed in the cyclone so as to strain the liquid and fleshy parts of the tomato from the skins, cores, and seeds. The resulting liquid is heated practically to boiling, but the heat is kept at such a point that there is no substantial concentration of the tomato material. The canned tomatoes, with the addition of this tomato material, have been sold under the name of "Tomatoes with Puree from Trimmings."

3

The use of the term "Tomatoes with Puree from Trimmings" to describe the third type of canned tomatoes is inaccurate, because the tomato material added to canned tomatoes is neither a puree, as that word is generally understood in connection with tomato products, nor is it prepared from trimmings.

4

Since residual tomato material from preparation for canning, in the form of tomato flesh and liquid obtained from skins, cores, and seeds cannot be accurately and truthfully described as tomatoes "with puree from trimmings," the product should be so labeled, as truthfully to reveal the source of the raw-material ingredients. Rot and decomposition attach first to the skins of the tomatoes and are concentrated, therefore, in a product made from skins, seeds, and cores. Canned tomatoes made from whole tomatoes have generally been found to have a lower mold count than canned tomatoes prepared in part from liquid extracted from the skins of tomatoes. The history of canned tomatoes with added material procured from skins, seeds, and cores reveals that this product has not merited the same degree of favor as tomatoes prepared from the whole fruit.

5

Zestful and harmless flavorings are used in the manufacture of canned tomatoes. Salt, spices, and basil leaves, either singly or in combination, are sometimes added to canned tomatoes.

Other findings suggested by the Presiding Officer are not found because they relate either to standards of quality or

to matters governed by Section 402 of the act. [cf. Sec. 10,000 (c), General Rules and Regulations Promulgated 1939]

Regulation Establishing Standard of Identity

§ 53.040 *Canned tomatoes—Identity; label statement of optional ingredients.*

(a) Canned tomatoes are mature tomatoes of red or reddish varieties which are peeled and cored and to which may be added one or more of the following optional ingredients:

- (1) The liquid draining from such tomatoes during or after peeling and coring.
- (2) The liquid strained from the residue from preparing such tomatoes for canning, consisting of peelings and cores with or without such tomatoes or pieces thereof.
- (3) The liquid strained from mature tomatoes of such varieties.

It may be seasoned with one or more of the optional ingredients:

- (4) Salt.
- (5) Spices.
- (6) Flavoring.

It is sealed in a container and so processed by heat as to prevent spoilage.

(b) When optional ingredient (2) is present, the label shall bear the statement "With Added Strained Residual Tomato Material from Preparation for Canning." When optional ingredient (3) is present, the label shall bear the statement "With Added Strained Tomatoes." When optional ingredient (5) or (6) is present, the label shall bear the statement or statements "Spice Added" or "With Added Spice," "Flavoring Added" or "With Added Flavoring," as the case may be. If two or all of optional ingredients (2), (3), (5), and (6) are present, such statements may be combined, as for example, "With Added Strained Tomatoes, Residual Tomato Material from Preparation for Canning, Spice and Flavoring." In lieu of the word "Spice" or "Flavoring" in such statement or statements, the common or usual name of such spice or flavoring may be used. Wherever the name "Tomatoes" appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statement or statements herein specified showing the optional ingredients present shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

CANNED TOMATOES

Standard of Quality

Findings of Fact

1

A standard of quality for canned tomatoes based, as one of the factors to be considered, upon the weight of the tomatoes in the container that are retained, after proper draining for two minutes on a sieve (eight inches in diameter if the quantity of the contents of the container is less than three pounds and twelve inches in diameter if such quantity is three pounds or more) having two meshes to the linear inch and the bottom which is made of wire of a uniform diameter of 0.054 inch, woven into square meshes of a uniform inside diameter of 0.446 inch, equalling or exceeding one-half of the weight of water at 68° F. required to fill the container, is a reasonable one and would promote honesty and fair deal-

ing in the interest of the consumers for the reasons that the sieve of the size described permits the liquid and very small pieces of tomato flesh to fall through the openings, retaining the larger tomato portions; one-half at least by volume of the can is tomato meats of sufficient size to serve the uses to which consumers make of the article; consumers can determine their needs and make budgetary allowances in purchasing the size can best suited to their needs knowing that not more than one-half is liquid and tomato fragments; and it can be precisely determined.

2

It is reasonable and will promote honesty and fair dealing in the interest of consumers to specify a drained weight requirement for canned tomatoes based on the water capacity of the container rather than a drained weight requirement based on the total contents in the container for the reason that the can, to the consumer's eye, is a measure of the quantity of drained tomato meats that ought to be received; recent examination of thousands of cans of tomatoes show that a requirement based on the water capacity of the container would be fairer and more equitable both to the canner and the consumer; it would give the consumer a better quality of tomatoes; it could be accurately determined; and it is in accord with good commercial canning practice.

3

It is reasonable and it will promote honesty and fair dealing in the interest of consumers to prescribe, in a reasonable standard of quality for canned tomatoes, a method for determining the weight of water required to fill a metal container with lid attached by double seam which will include:

(1) opening the container without injuring the double seam, removing contents, washing, drying and weighing the empty container;

(2) filling such container with distilled water of a temperature of 68° F. to three-sixteenths of an inch below the top level and then weighing the container and the water; and

(3) the result, after subtracting the weight of the empty container described in (1) from the weight of the container and water described in (2), is the weight of water required to fill the container, for the reason that the method is definite; that any method based on can dimensions would be approximate; that domestic and imported can construction differs; that calculations from dimensional measurements are not accurate; that three-sixteenths of an inch is the accepted and determined measure of the double seam; that the displacement method is not practicable or reasonable for a canner to use in his factory; and that the method here recommended is in accord with good commercial canning practice.

4

It is reasonable and will promote honesty and fair dealing in the interest of consumers to prescribe, in a reasonable standard of quality for canned tomatoes, a method of determining the weight of water required to fill containers other than those attached by double seam, which will include:

(1) opening the container, removing contents, washing, drying and weighing the empty container;

(2) filling such container with distilled water of a temperature of 68° F. to the top and then weighing the container and the water; and

(3) the result, after subtracting the weight of the empty container described in (1) from the weight of the container and water described in (2), is the weight of water required to fill the container for the reasons that the method is definite; that any method based on can or container dimensions

would be approximate; that domestic and imported container construction differs; that calculations from dimensional measurements are not accurate; that when tomatoes are in containers with lids other than those attached by means of a double seam the lid is placed on the top of the container; that the displacement method is only practicable with good commercial canning practice.

5

A standard of quality for canned tomatoes based, as one of the factors to be considered, upon the redness or height of the color of the tomatoes in the container determined by taking and removing from the sieve the drained tomatoes obtained in determining the drained weight and cutting out and successively segregating those portions in which the red color is least developed until one-half by weight of such drained tomatoes have been so segregated; by reducing such segregated portions to a uniform mixture without removing or breaking the tomato seeds; by putting such mixture into a black container to a depth of at least one inch; by freeing such mixtures from air bubbles and skimming off or pressing below the surface all visible tomato seeds; by comparing the color of such mixture, in full diffused daylight or its equivalent, with the blended color of combinations of the following Munsell color discs, or the color equivalent of such discs:

Disc 1. Red—5R 2.6/13 (glossy finish)

Disc 2. Yellow—2.5 YR 5/12 (glossy finish)

Disc 3. Black—N 1/ (glossy finish)

Disc 4. Grey—N 4/ (mat finish);

and if the redness or height of the color of such mixture is not less than that of any combination of the above-described Munsell color discs in which one-third of the area of disc 1 and not more than one-third of the area of disc 2 (regardless of the exposed area of discs 3 and 4) is exposed, then the color factor requirement is met,

would be reasonable and would promote honesty and fair dealing in the interest of consumers in that the consumer would be assured of getting tomatoes with fairly well developed red color, and would be in accord with good commercial practice.

6

In a standard of quality for canned tomatoes, a maximum allowance of one square inch of tomato peel per pound of canned tomatoes in the container as one of the quality factors would be reasonable and would promote honesty and fair dealing in the interest of consumers in that, of the thousands of cans of tomatoes examined between July 1, 1937 and September 21, 1938, representing the output of 388 packers located in all of the principal tomato producing sections of the United States and being a very representative cross section of the industry, the great majority showed less than one inch of tomato peel per pound of canned tomatoes; the consumer expects to get a minimum amount of peel in a can of tomatoes; and it is in accord with good commercial practice.

7

In a standard of quality for canned tomatoes, a maximum allowance of one-fourth square inch of tomato blemish per pound of canned tomatoes in the container, as one of the quality factors, would be reasonable and would promote honesty and fair dealing in the interest of consumers for the reason that this quality factor has been in force since 1931 without change; of the thousands of cans of tomatoes examined for this factor but few failed to meet the requirement and the great majority was well below the tolerance; and it is in accord with good commercial practice and consumer understanding of the article.

8

There are no yellow varieties of tomatoes canned and sold under the name of tomatoes unqualified.

Regulation Establishing Standard of Quality

§ 53.041 *Canned tomatoes—Quality.* (a) The standard of quality for canned tomatoes is as follows:

(1) The drained weight, as determined by the method prescribed in subsection (b) (1), is not less than 50 per cent of the weight of water required to fill the container, as determined by the general method for water capacity of containers prescribed in section 10.010 (a);

(2) the strength and redness of color, as determined by the method prescribed in subsection (b) (2), is not less than that of the blended color of any combination of the color discs described in such method, in which one-third the area of disc 1, and not more than one-third the area of disc 2, is exposed;

(3) peel, per pound of canned tomatoes in the container, covers an area of not more than 1 square inch; and

(4) blemishes, per pound of canned tomatoes in the container, cover an area of not more than one-fourth square inch.

(b) Canned tomatoes shall be tested by the following method to determine whether or not they meet the requirements of clauses (1) and (2) of subsection (a):

(1) Remove lid from container, but in the case of a container with lid attached by double seam, do not remove or alter the height of the double seam. Tilt the opened container so as to distribute the contents over the meshes of a circular sieve which has previously been weighed. The diameter of the sieve used is 8 inches if the quantity of the contents of the container is less than 3 pounds, or 12 inches if such quantity is 3 pounds or more. The meshes of such sieve are made by so weaving wire of 0.054 inch diameter as to form square openings 0.446 inch by 0.446 inch. Without shifting the tomatoes, so incline the sieve as to facilitate drainage of the liquid. Two minutes from the time drainage begins, weigh the sieve and drained tomatoes. The weight so found, less the weight of the sieve, shall be considered to be the drained weight.

(2) Remove from the sieve the drained tomatoes obtained in (1). Cut out and segregate successively those portions of least redness until 50 per cent of the drained weight, as determined under (1), has been so segregated. Comminute the segregated portions to a uniform mixture without removing or breaking the seeds. Fill the mixture into a black container to a depth of at least 1 inch. Free the mixture from air bubbles, and skim off or press below the surface all visible seeds. Compare the color of the mixture, in full diffused daylight or its equivalent, with the blended color of combinations of the following concentric Munsell color discs of equal diameter, or the color equivalents of such discs:

1. Red—Munsell 5R 2.6/13 (glossy finish).
2. Yellow—Munsell 2.5 YR 5/12 (glossy finish).
3. Black—Munsell N 1/ (glossy finish).
4. Grey—Munsell N 4/ (mat finish).

CANNED TOMATOES

Form of Label Statements for Substandard Quality and Substandard Fill

Findings of Fact

1

In 1931, under the McNary-Mapes Amendment to the Food and Drugs Act of 1906 (21 U.S.C. Sec. 10, Par. 5, in the case of food) to promote honesty and fair dealing in the

interest of the consumer, the Secretary of Agriculture, after public hearings, promulgated a regulation providing for the labeling of canned foods that fell below the applicable standard of quality or fill of container, which included canned tomatoes; that such regulation required the label statement to indicate plainly that the product was substandard; that the factors considered essential to indicate plainly that the product was substandard were (1) the relative prominence of the statement on the label; (2) such a position of the statement on the label with respect to the name or a pictorial representation of the product as would make the statement apparent or discernible under ordinary conditions of purchase and sale; (3) the kind and size of type used; and (4) a statement to be of such a nature that it would not convey a misleading impression; that such a regulation embodying these factors has been in force since 1931; and that essentially the same requirements are hereinafter recommended.

2

It will be reasonable and will promote honesty and fair dealing in the interest of consumers in promulgating regulations providing for the labeling of canned tomatoes that fall below the applicable standards of quality or fill of container, to require such a label statement as would plainly indicate the product was below standard; that such a label statement would include prominence, position, display, type, clarity and certainty; and that such a label statement would indicate clearly and concisely that the article failed to meet the standards of quality or fill of container applicable thereto.

3

Such a label statement will indicate plainly that the product is below standard if it appears in connection with the product name or pictorial representation thereof or both such name and pictorial representation so as to be clearly visible under ordinary conditions of purchase and sale.

4

It will be reasonable and will promote honesty and fair dealing in the interest of consumers to require, on below standard quality canned tomatoes, the statement "Below Standard Quality" on one line and "Good Food—Not High Grade" on a line below; to be printed in type of 12-point Cheltenham bold condensed caps for the first line and for the second line 8-point type of the same style if the quantity of the contents of the container is less than one pound, and if such quantity is one pound or more in type of the same style, the first line to be 14-point, and the second line 10-point; such statement to be enclosed within a border, not less than 6 points in width, in the shape of a rectangle; and such statement, so enclosed, to be on a strongly contrasting, uniform background, so placed as to be clearly seen when the word "Tomatoes" or any pictorial representation of a tomato is viewed, wherever such word or representation appears so conspicuously as to be easily seen under customary conditions of purchase and sale.

5

It will be reasonable and will promote honesty and fair dealing in the interest of consumers to require, on below standard fill of container canned tomatoes, the statement "Below Standard Fill" to be printed in type of 12-point Cheltenham bold condensed caps for the first line and for the second line 8-point type of the same style if the quantity of the contents of the container is less than one pound, and if such quantity is one pound or more in type of the same style, the first line to be 14-point and the second line 10-point; such statement to be enclosed within a border, not less than 6 points in width, in the shape of a rectangle; and such statement, so enclosed, to be on a strongly contrasting,

uniform background, so placed as to be clearly seen when the word "Tomatoes" or any pictorial representation of a tomato is viewed, wherever such word or representation appears so conspicuously as to be easily seen under customary conditions of purchase and sale.

6

It will be reasonable and will promote honesty and fair dealing in the interest of consumers to require, on canned tomatoes that fall below both the standard of quality and the standard of fill of container applicable thereto, both the statements described in paragraphs 4 and 5, the one following the other, and enclosed in a single rectangle.

7

The statement "Below U. S. Standard" on below standard quality or fill of container canned tomatoes is indefinite; is misleading; and conveys the impression to the consumer that the United States Government supervised the preparation of the article.

8

The statement "slack fill" on substandard quality or fill of container canned tomatoes is ambiguous; is indefinite; and the meaning that is intended to be conveyed to the consumer by the words "slack fill" is uncertain.

Regulation Establishing Label Statement for Substandard Quality

§ 53.041 Canned tomatoes—Label statement of substandard quality. (c) If the quality of canned tomatoes falls below the standard prescribed in subsection (a) of this section, the label shall bear the general statement of substandard quality specified in section 10.020 (a), in the manner and form therein specified; but in lieu of such general statement of substandard quality, the label may bear the alternative statement "Below Standard in Quality —," the blank to be filled in with the words specified after the corresponding number of each clause of subsection (a) of this section which such canned tomatoes fail to meet, as follows: (1) "Excessively Broken Up"; (2) "Poor Color"; (3) "Excessive Peel"; (4) "Excessive Blemishes." If such canned tomatoes fail to meet both clauses (3) and (4), the words "Excessive Peel and Blemishes" may be used instead of the words specified after the corresponding numbers of such clauses. Such alternative statement shall immediately and conspicuously precede or follow, without intervening written, printed, or graphic matter, the name "Tomatoes" and any statements required or authorized to appear with such name by section 53.040 (b).

Regulation Establishing Label Statement for Substandard Fill

§ 53.042 Canned tomatoes—Label statement of substandard fill. (b) If canned tomatoes fall below the standard of fill of container prescribed in subsection (a) of this section, the label shall bear the general statement of substandard fill specified in section 10.020 (b), in the manner and form therein specified.

TOMATO PUREE

Definition and Standard of Identity

Findings of Fact

1

The term "Tomato Puree" and the term "Tomato Pulp" are synonymous names for the same food.

2

Tomatoes used in the manufacture of tomato puree, tomato pulp, are mature tomatoes of red or reddish varieties.

3

The raw materials used are:

- (1) Whole tomatoes;
- (2) Residual tomato material from preparation for canning, consisting of pieces, cores, peelings, liquid, in whole or in part;
- (3) Residual tomato material from partial extraction of juice;
- (4) Tomato puree, tomato pulp, is made from any one of the above sources of raw material, or any combination thereof.

4

When tomato puree, tomato pulp, is manufactured in whole or in part from residual tomato material from preparation for canning or from partial extraction of juice, the label shall declare the raw-material ingredients used.

5

Tomato puree, tomato pulp, is manufactured by crushing and straining whole tomatoes or residual tomato material from preparation for canning or from partial extraction of juice, so as to remove seeds, skins, cores, and other coarse or hard substances, concentrating to a definite point, and packing so as to prevent spoilage.

6

Tomato puree, tomato pulp, is a concentrated product.

7

(1) When total solids are to be determined for the purpose of the standard or for any legal purpose, a method employed is the method set forth by the "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," 4th Edition, 1935, page 499, Section 16, "Total Solids—Tentative."

(2) When salt-free solids are to be determined, sodium chloride may be determined by the method prescribed on page 500 of the book referred to in (1) above, under Section 22, "Sodium Chloride—Official." The amount of sodium chloride found is subtracted from the total solids found. The difference is considered to be the salt-free tomato solids of the product.

8

Salt frequently is used as a seasoning ingredient in tomato puree, tomato pulp.

9

The concentration of tomato puree, tomato pulp, is such that the salt-free tomato solids content is not less than 8.37 percent but less than 25.00 percent.

Other findings suggested by the Presiding Officer are not found because they relate either to standards of quality or to matters governed by section 402 of the act. [cf. Sec. 10.000 (c), General Rules and Regulations Promulgated 1939]

Regulation Establishing Standard of Identity

§ 53.020 Tomato puree, tomato pulp—Identity; labeling of optional ingredients.

(a) Tomato puree, tomato pulp, is the food prepared from one or any combination of two or all of the following optional ingredients:

(1) The liquid obtained from mature tomatoes of red or reddish varieties.

(2) The liquid obtained from the residue from preparing such tomatoes for canning, consisting of peelings and cores with or without such tomatoes or pieces thereof.

(3) The liquid obtained from the residue from partial extraction of juice from such tomatoes. Such liquid is obtained by so straining such tomatoes or residue, with or without heating, as to exclude skins, seeds, and other coarse or hard substances. It is concentrated, and may be seasoned with salt. When sealed in a container it is so processed by heat, before or after sealing, as to prevent spoilage. It contains not less than 8.37 percent, but less than 25.00 percent, of salt-free tomato solids, as determined by the following method:

Determine total solids by the method prescribed on page 499 under "Total Solids—Tentative", and sodium chloride by the method prescribed on page 500 under "Sodium Chloride—Official", of "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," Fourth Edition, 1935. Subtract the percent of sodium chloride found from the percent of total solids found; the difference shall be considered to be the percent of salt-free tomato solids.

(b) When optional ingredient (2) is present, in whole or in part, the label shall bear the statement "Made from _____" (or "Made in Part From _____", as the case may be) "Residual Tomato Material from Canning." When optional ingredient (3) is present, in whole or in part, the label shall bear the statement "Made From _____" (or "Made in Part From _____", as the case may be) "Residual Tomato Material from Partial Extraction of Juice." If both such ingredients are present, such statements may be combined in the statement "Made From _____" (or "Made in Part From _____", as the case may be) "Residual Tomato Material from Canning and from Partial Extraction of Juice." Wherever the name "Tomato Puree" or "Tomato Pulp" appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statement or statements herein specified showing the optional ingredients present shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

TOMATO PASTE

Definition and Standard of Identity

Findings of Fact

1

Tomatoes used in the manufacture of tomato paste are mature tomatoes of red or reddish varieties.

2

The raw materials used are:

- (1) Whole tomatoes;
- (2) Residual tomato material from preparation for canning, consisting of pieces, cores, peelings, liquid, in whole or in part;
- (3) Residual tomato material from partial extraction of juice;
- (4) Tomato paste is made from any one of the above sources of raw material, or any combination thereof.

3

When tomato paste is manufactured in whole or in part from residual tomato material from preparation for canning or from partial extraction of juice, the label shall declare the raw-material ingredients, used.

4

Tomato paste is manufactured by crushing and straining whole tomatoes or residual tomato material from preparation

for canning or from partial extraction of juice, so as to remove seeds, skins, cores, and other coarse or hard substances, concentrating to a definite point, and packing so as to prevent spoilage.

5

(1) When total solids are to be determined for the purpose of the standard or for any legal purposes, a method employed is the method set forth by the "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," Fourth Edition, 1935, page 499, Section 16, "Total Solids—Tentative."

(2) When salt-free solids are to be determined, a method employed by which sodium chloride is found is the method prescribed on page 500 of the book referred to in (1) above, under Section 22, "Sodium Chloride—Official." The amount of sodium chloride found is subtracted from the total solids found. The difference is considered to be the salt-free tomato solids of the product.

6

Sweet basil leaves, oil of sweet basil, and salt are sometimes used in tomato paste.

7

Tomato paste has a minimum salt-free tomato solids content of 25.00 per cent.

8

Baking soda, as an acid-neutralizing agency, is sometimes used in the manufacture of tomato paste.

Other findings suggested by the Presiding Officer are not found because they relate either to standards of quality or to matters governed by Section 402 of the act. [cf. Sec. 10.000 (c), General Rules and Regulations Promulgated 1939]

Regulation Establishing Standard of Identity

§ 53.030 *Tomato paste—Identity; labeling of optional ingredients.* (a) Tomato paste is the food prepared from one or any combination of two or all of the following optional ingredients:

- (1) The liquid obtained from mature tomatoes of red or reddish varieties.
- (2) The liquid obtained from the residue from preparing such tomatoes for canning, consisting of peelings and cores with or without such tomatoes or pieces thereof.
- (3) The liquid obtained from the residue from partial extraction of juice from such tomatoes. Such liquid is obtained by so straining such tomatoes or residue, with or without heating, as to exclude skins, seeds, and other coarse or hard substances. It is concentrated, and may be seasoned with one or more of the optional ingredients:
- (4) Salt.
- (5) Spice.
- (6) Flavoring.

It may contain, in such quantity as neutralizes a part of the tomato acids, the optional ingredient:

- (7) Baking soda.

When sealed in a container it is so processed by heat, before or after sealing, as to prevent spoilage. It contains not less than 25.00 per cent of salt-free tomato solids, as determined by the following method:

Determine total solids by the method prescribed on page 499 under "Total Solids—Tentative," and sodium chloride by the method prescribed on page 500 under "Sodium Chloride—Official," of "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," Fourth Edition, 1935. Subtract the per cent of sodium

chloride found from the per cent of total solids found; the difference shall be considered to be the per cent of salt-free tomato solids.

(b) When optional ingredient (2) is present, in whole or in part, the label shall bear the statement "Made From —" (or "Made in Part From —," as the case may be) "Residual Tomato Material from Canning." When optional ingredient (3) is present, in whole or in part, the label shall bear the statement "Made From —" (or "Made in Part From —," as the case may be) "Residual Tomato Material from Partial Extraction of Juice." If both such ingredients are present, such statements may be combined in the statement "Made from —" (or "Made in Part From —," as the case may be) "Residual Tomato Material from Canning and from Partial Extraction of Juice." When optional ingredient (5) or (6) is present the label shall bear the statement or statements "Spice Added" or "With Added Spice," "Flavoring Added" or "With Added Flavoring," as the case may be. When optional ingredient (7) is present, the label shall bear the statement "Baking Soda Added." If two or all of the optional ingredients (5), (6), and (7) are present, such statements may be combined, as for example, "Spice, Flavoring, and Baking Soda Added." In lieu of the word "Spice" or "Flavoring" in such statement or statements, the common or usual name of such spice or flavoring may be used. Wherever the name "Tomato Paste" appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statement or statements herein specified showing the optional ingredients present shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

General Food Standard Regulations Promulgated

General regulations defining terms that may be used in definitions and standards for food products promulgated under the Federal Food, Drug, and Cosmetic Act, have been issued by the Secretary of Agriculture. Included in the promulgations are the methods for determining capacity and fill of containers and the requirements for statements of substandard quality and substandard fill.

These regulations appear in the July 18, 1939, issue of the *Federal Register*, and will become effective on January 1, 1940. They are reproduced below:

Food Standard Regulations

§ 10.000 *General regulation.* (a) The definitions and interpretations of terms contained in section 201 of the Act shall be applicable also to such terms when used in regulations promulgated under the Act.

(b) The name of a food for which a definition and standard of identity is fixed and established under section 401 of the Act shall have the meaning ascribed to such name by such definition and standard, wherever such name is used in regulations promulgated under the Act.

(c) Each definition and standard of identity, and each standard of quality, fixed and established for a food under section 401 of the Act, contemplates that such food and all articles used as components or ingredients thereof shall be clean, sound, and fit for food.

General Requirements for Fill of Container and Substandard Legend

§ 10.010 *General methods for water capacity and fill of containers.* For the purposes of regulations promulgated under section 401 of the Act—

(a) The term "general method for water capacity of containers" means the following method:

(1) In the case of a container with lid attached by double seam, cut out the lid without removing or altering the height of the double seam.

(2) Wash, dry, and weigh the empty container.

(3) Fill the container with distilled water at 68° Fahrenheit to $\frac{3}{16}$ inch vertical distance below the top level of the container, and weigh the container thus filled.

(4) Subtract the weight found in (2) from the weight found in (3). The difference shall be considered to be the weight of water required to fill the container.

In the case of a container with lid attached otherwise than by double seam, remove the lid and proceed as directed in clauses (2) and (4) inclusive, except that under clause (3) fill the container to the level of the top thereof.

(b) The term "general method for fill of containers" means the following method:

(1) In the case of a container with lid attached by double seam, cut out the lid without removing or altering the height of the double seam.

(2) Measure the vertical distance from the top level of the container to the top level of the food.

(3) Remove the food from the container; wash, dry, and weigh the container.

(4) Fill the container with water to $\frac{3}{16}$ inch vertical distance below the top level of the container. Record the temperature of the water, weigh the container thus filled, and determine the weight of the water by subtracting the weight of the container found in (3).

(5) Maintaining the water at the temperature recorded in (4), draw off water from the container as filled in (4) to the level of the food found in (2), weigh the container with remaining water, and determine the weight of the remaining water by subtracting the weight of the container found in (3).

(6) Divide the weight of water found in (5) by the weight of water found in (4), and multiply by 100. The result shall be considered to be the percent of the total capacity of the container occupied by the food.

In the case of a container with lid attached otherwise than by double seam, remove the lid and proceed as directed in clauses (2) to (6) inclusive, except that under clause (4), fill the container to the level of the top thereof.

§ 10.020 *General statements of substandard quality and substandard fill of container.* For the purposes of regulations promulgated under section 401 of the Act—

(a) The term "general statement of substandard quality" means the statement "BELOW STANDARD IN QUALITY GOOD FOOD—NOT HIGH GRADE" printed in two lines of Cheltenham bold condensed caps. The words "BELOW STANDARD IN QUALITY" constitute the first line, and the second immediately follows. If the quantity of the contents of the container is less than 1 pound, the type of the first line is 12-point, and of the second, 8-point. If such quantity is 1 pound or more, the type of the first line is 14-point, and of the second, 10-point. Such statement is enclosed within lines, not less than 6 points in width, forming a rectangle. Such statement, with enclosing lines, is on a strongly contrasting, uniform background, and is so placed as to be easily seen when the name of the food or any pictorial representation thereof is viewed, wherever such name or representation appears so conspicuously as to be easily seen under customary conditions of purchase.

(b) The term "general statement of substandard fill" means the statement "BELOW STANDARD IN FILL" printed in Cheltenham bold condensed caps. If the quantity of the contents of the container is less than 1 pound, the statement is in 12-point type; if such quantity is 1 pound or more, the statement is in 14-point type. Such statement is enclosed within lines, not less than 6 points in width, forming a rectangle; but if the statement specified in paragraph (a) is also used, both statements (one following the other) may be enclosed within the same rectangle. Such statement or statements, with enclosing lines, are on a strongly contrasting, uniform background, and are so placed as to be easily seen when the name of the food or any pictorial representation thereof is viewed, wherever such name or representation appears so conspicuously as to be easily seen under customary conditions of purchase.

Procedure for Hearings Amended

A few changes have been announced in the rules of procedure to guide public hearings held under Section 701 (e) of the Federal Food, Drug, and Cosmetic Act. These are published in the July 19, 1939, issue of the *Federal Register*.

The first amendment makes clear that these rules of procedure do not apply to regulations contemplated under 404 (a) of the Act (emergency permit control).

The second change permits photostatic copies of exhibits to be received in evidence.

The third change corrects a typographical error in the official publication of the Rules and Regulations in the *Federal Register* of January 13, 1939.

IMPORTS OF SUGAR FOR CONSUMPTION

Receipts During May by Countries of Origin and Ports of Entry

Total receipts of sugar for consumption in the United States during May were 772,185,997 pounds, as compared with 901,826,074 pounds in April, according to Department of Commerce figures. These totals include all dutiable and free sugar imports, both raw and refined.

In the following table, compiled from a special report of the Department of Commerce, are shown the imports during May of dutiable and free sugar from foreign countries, and receipts of sugar in the United States from non-contiguous territories:

Origin	Raw		Refined	
	Dutiable Pounds	Free Pounds	Dutiable Pounds	Free Pounds
Foreign countries:				
Cuba.....	145,688,664		43,419,294	800
Nicaragua.....			2,000,000	508
Haiti.....			961,500	
Netherlands Indies.....			100,094	
Philippine Islands.....	2,413,333	184,919,735	24,673,452	
Canada.....	270			
Dominican Republic.....	8,713,000			
China.....	5,700			
Hong Kong.....	3,400			
United Kingdom.....				68,707
Guatemala.....				5,788
Total.....	156,824,367	184,919,735	71,154,340	75,803
U. S. Territories:				
Hawaii.....		186,292,780		1,500,000
Puerto Rico.....		120,611,572		50,807,400
Total receipts.....	156,824,367	491,824,087	71,154,340	52,383,203

The following table shows the imports of raw and refined sugar for consumption, by ports of entry. These figures include imports for direct consumption and withdrawals from bonded warehouses. Sugar brought into a United States port during a month in excess of a country's quota usually is held in bond until a later date when it is released for sale under the quota applying for that month. That portion of the sugar brought into United States ports and stored in bonded warehouses is not included in "imports for consumption" figures, shown in the preceding table, until the sugar is released for sale.

Port of entry	Raw		Refined	
	Dutiable Pounds	Free Pounds	Dutiable Pounds	Free Pounds
Massachusetts.....	49,321,452	11,182,001		
Rochester.....	270			
New York.....	29,380,670	62,942,598	18,668,900	65,300
Philadelphia.....	18,382,393	46,986,480	12,819,964	
Maryland.....	7,325,280	8,976,335	4,281,880	
Virginia.....	2,633,391		3,300,000	
North Carolina.....	49,648		3,050,000	
South Carolina.....			1,424,600	
Georgia.....	439,603			
Florida.....			4,882,875	
Mobile.....			1,652,950	800
New Orleans.....	40,032,423	38,007,387	2,140,000	
Kentucky.....	39,784			
Galveston.....	8,584,108	16,824,934		508
Los Angeles.....			5,500,000	5,788
San Francisco.....	113,229		100	3,407
Oregon.....	48,107		8,617,888	
Washington.....			3,695,594	
Michigan.....			599,989	
Ohio.....			500,000	
Virgin Islands.....	425,000		19,600	
Total.....	156,824,367	184,919,735	71,154,340	75,803

Indexes on Wholesale and Retail Prices

Indexes on wholesale and retail prices in the tables below are the latest available from the Bureau of Labor Statistics. The wholesale price indexes are based on the average for 1926 taken as 100 per cent, while for retail prices the average for the years 1923-25 is taken as 100 per cent.

	Wholesale Prices					
	July 15, 1939	July 8, 1939	July 1, 1939	June 24, 1939	June 17, 1939	July 16, 1939
All commodities.....	75.5	75.6	75.5	75.5	75.4	78.9
All foods.....	67.6	68.1	67.4	67.4	67.1	74.4

	Retail Prices				
	June 13, 1939	May 16, 1939	Apr. 18, 1939	June 14, 1938	June 15, 1938
All foods.....	76.3	76.5	76.6	80.2	64.9
Fresh fruits and vegetables.....	65.2	65.3	64.4	65.2	68.9
Canned fruits and vegetables.....	73.8	73.8	73.9	78.2	66.7

Stocks and Shipments of Canned Tomatoes

Stocks of canned tomatoes in canners' hands on July 1, 1939, excluding California stocks, amounted to 3,071,262 actual cases, compared with 2,501,010 cases on July 1, 1938, according to figures compiled by the Association's Division of Statistics. These figures are based on reports from 86 per cent of the 1938 tomato pack, together with estimates for the 14 per cent not reported.

Shipments during May and June, 1939, amounted to 1,689,491 cases, compared with shipments of 1,720,736 cases

during the same two months in 1938. Figures on shipments for June, 1938, are not available, consequently May and June shipments were combined for both years. Shipments during the 12-month period, July 1, 1938, to July 1, 1939, amounted to 17,688,931 cases, compared with 19,030,736 cases shipped during the previous 12 months. These shipments figures also exclude California.

In the following table are shown stocks on July 1, 1939, and shipments during June, by regions, excluding California:

	Stocks on July 1, 1939			Shipments during June
	Sold not shipped Cases	Unsold Cases	Total Cases	
Northeast.....	51,008	204,380	255,487	22,216
Middle Atlantic.....	56,102	848,933	905,035	293,728
Mid-West.....	78,678	864,797	943,475	241,435
Tennessee-Kentucky.....	7,650	37,885	45,535	41,530
Ozark Territory.....		842,045	842,045	93,538
Western.....	21,356	58,329	79,685	75,344
Total (excluding California)....	214,884	2,856,378	3,071,262	767,791

Temperature and Rainfall Records

The following table gives the average temperature and total rainfall for the principal canning districts for each of the past two weeks, as shown by the U. S. Weather Bureau reports for selected stations in these districts:

District	Week ended July 11, 1939		Week ended July 18, 1939	
	Temp.	Rain	Temp.	Rain
Maine.....	74	1.2	65	.2
Western New York.....	78	.3	66	.1
Tri-States.....	80	.4	76	.6
South Central Ohio.....	79	.9	72	.7
Central Indiana.....	79	1.0	76	2.5
Central Illinois.....	80	3.1	75	1.2
Northern Illinois, Southern Wisconsin.....	78	.5	72	.3
Southern Minnesota.....	78	.3	72	1.0
Northern Colorado.....	78	.0	80	.0
Northern Utah.....	77	.0	82	.0
Northwestern Washington.....	64	.0	64	.3
Southeastern Washington.....	74	.0	73	.0

Stocks and Shipments of Canned Fresh Lima Beans

Total stocks of canned fresh lima beans in canners' hands on July 1, 1939, amounted to 406,589 actual cases, compared with 80,864 cases on July 1, 1938, and 187,347 cases on April 1, 1939, according to figures compiled by the Association's Division of Statistics. Shipments during the three months, April through June, 1939, amounted to 246,503 cases, compared with 106,483 cases shipped during the same three months in 1938. Shipments during the 12 months, July 1, 1938, to July 1, 1939, amounted to 1,467,201 cases, compared with the slightly larger shipments during the preceding 12 months of 1,467,848 cases.

Stocks and Shipments of Green and Wax Beans

Total stocks of both green and wax beans on July 1, 1939, amounted to 2,014,491 actual cases, compared with 967,543 cases on July 1, 1938, according to figures compiled by the Association's Division of Statistics. The figures are based on reports from 80 per cent of the green bean pack, and 90 per cent of the wax bean pack, together with estimates for that not reported.

In the following table, figures of total stocks and shipments during the two years are shown for each variety:

	1937-38		1938-39	
	Green Cases	Wax Cases	Green Cases	Wax Cases
Total Stocks July 1.....	901,287	66,256	1,531,498	482,993
Unsold Stocks July 1.....	820,171	40,125	1,166,080	434,879
Shipments April to July.....	803,040	114,959	1,208,297	312,159
Shipments July 1 to July 1.....	7,377,100	1,268,761	7,965,805	1,318,922

Stocks of green beans on July 1, 1939, and shipments during the three months, April to July, are shown in the following table by regions:

	Stocks of Green Beans on July 1, 1939			Shipments April to July
	Sold not shipped Cases	Unsold Cases	Total Cases	
Northeast.....	52,069	151,324	203,393	186,517
Middle Atlantic.....	36,737	195,777	232,514	297,130
Midwest.....	76,305	468,733	545,038	380,324
Western.....	169,892	332,748	502,640	286,433
Southern.....	30,415	17,498	47,913	57,893
Total.....	365,418	1,106,080	1,531,498	1,268,297

Stocks of wax beans on July 1, 1939, and shipments during the three months, April to July, are shown in the following table by regions:

	Stocks of Wax Beans on July 1, 1939			Shipments April to July
	Sold not shipped Cases	Unsold Cases	Total Cases	
Northeast.....	25,465	127,019	152,484	127,943
Middle Atlantic.....	2,852	68,445	71,297	33,551
Midwest.....	19,450	196,661	216,111	116,368
Western.....	347	39,616	39,963	18,498
Southern.....		3,138	3,138	15,799
Total.....	48,114	434,879	482,993	312,159

Veterans Bureau Asks Bids on Canned Foods

Invitations for bids on 7,650 cases (6 No. 10 cans) of canned lima beans, and on 20,220 cases (24 No. 2 cans) of canned corn, including golden bantam and white, have been announced by the Veterans Administration. Bids on the lima beans are to be opened August 8, and the bids on corn on August 9. Schedules can be obtained from the Procurement Division, Veterans Administration, Arlington Building, Washington, D. C.

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